

In the Supreme Court of the State of Alaska

Harry E. Gideon Saunders,
Appellant,

v.

Elke M. Saunders,
Appellee.

Supreme Court No. S-18028

Order Returning Appellant's Brief

Date of Order: 5/18/21

Trial Court Case No. 3AN-19-11813CI

Appellant's brief and excerpt of record, filed on **5/17/21**, are returned for correction, based on the following reasons specified by the law clerk who reviewed the brief and excerpt for technical compliance with Appellate Rules 210 and 212:

Please amend the brief to include a table of contents with titles and subtitles of arguments and page references [AR 212(c)(1)(A)]; in-text citations [212 (c)(1)(I) & 212 (c)(8)(A)]; and an appendices consisting of a table listing all assets and liabilities of the Parties as reflected in the record [212(c)(1)(K)].

Please see the attached Appellate Rule 210(c) for a list of documents that must be included in the excerpt of record; please amend the excerpt to be consolidated into one document with a separate cover (I have included one for your use) that includes the volume number stated on the front according to Clerk's Instructions, A.1 (attached); please amend the excerpt to be in chronological order with page numbers [Clerk's Instructions, A.4]; please include a table of contents for the excerpt with page numbers and dates that correspond to each document. The in-text citations should be citations to the excerpt page numbers following the statement of fact in the brief that support the statement. Citations to the excerpt look like [Ext. 1] [AR 210(c)(4)].

The original and one copy of the corrected brief, and the excerpt, with proof of service, are due on or before **6/1/21**. Appellant shall email .pdf versions of the brief and excerpt to pleadings@akcourts.gov. The appellee's brief due date is **VACATED**.

Entered under Appellate Rule 102(f).

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read 'Kaitlin D'Eimon', with a horizontal line extending to the right.

Kaitlin D'Eimon, Deputy Clerk

Distribution:

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In the Supreme Court of the State of Alaska

Harry E. Gideon Saunders,)	
)	
Appellant,)	Supreme Court No. S-18028
v.)	
)	
Elke M. Saunders,)	
)	
Appellee.)	
)	
<u>Trial Court Case No. 3AN-19-11813CI</u>		

Appeal from a final judgment of the Superior Court
Third Judicial District at Anchorage, Alaska
The Honorable Judge Herman G. Walker, Jr.

Appellant's Excerpt of Record

Volume 1 of 1

Harry E. Gideon Saunders,
pro se
3384 Antone Way
Kodiak, AK 99615
(907) 947-0264

By: _____
Harry E. Gideon Saunders

Filed in the Supreme Court of the
State of Alaska, this _____ day of
_____ 2021.

Meredith Montgomery, Clerk of the Appellate Court

By: _____
Kaitlin D'Eimon, Deputy Clerk

APPENDIX

CLERK'S INSTRUCTIONS FOR PREPARATION
OF EXCERPTS

A. APPELLANT'S EXCERPT OF RECORD

1. An excerpt of record must be bound on the left-hand side in the same manner as a brief. All excerpts, whether submitted by appellant or appellee, must have a pink cover. The cover must be the same weight and quality as the cover of a brief. The cover must contain the same information that appears on the front cover of the brief, but must be labeled "APPELLANT'S EXCERPT OF RECORD" instead of "BRIEF OF APPELLANT." It must also contain the volume number, e.g., "Volume 1 of 1."

EXAMPLE:

IN THE SUPREME COURT OF THE STATE OF ALASKA	
JANE A. DOE,)
Appellant,)
vs.)
JOHN B. DOE,)
Appellee)
_____)
	Supreme Court No. S-5741 Superior Court No. 3AN-92-4375 CI
APPEAL FROM THE SUPERIOR COURT, THIRD JUDICIAL DISTRICT AT ANCHORAGE, THE HONORABLE J. WILLIAM JONES, PRESIDING	
<u>APPELLANT'S EXCERPT OF RECORD</u> <u>VOLUME 1 OF 1</u>	
JAMES SMITH (AK Bar No. 234567) 100 A Street, Suite 100 Anchorage, Alaska 99000 (907) 333-3333 Attorney for Appellant Jane A. Doe	
Filed in the Supreme Court of the State of Alaska, this ____ day of _____, 2004.	
Marilyn May, Clerk	
By: _____ Deputy Clerk	

2. Documents in the excerpt of record must be arranged in chronological order by document execution date, with the document with the earliest date on top.

A memorandum filed in support of a motion should be placed immediately following the motion. Exhibits or attachments to the memorandum should follow the memorandum—even if the exhibit or attachment had an earlier execution date than the memorandum.

If pages of the transcript are included in the excerpt, these pages should appear together at the end of the excerpt, in numerical order (e.g., pp. 45-48, 87, 151-152).

See Section E on confidential documents.

3. Documents in the excerpt must be copied on both sides of the paper (i.e., double-sided copies).

4. Pages must be numbered in a single consecutive sequence throughout all volumes (e.g., if volume 1 contains pages 1 through 200, then volume 2 would begin with page 201). Page numbers must appear at the bottom of the page.

5. Each excerpt must contain a full table of contents at the beginning of the first volume. A party submitting a multi-volume excerpt must duplicate the full table of contents at the beginning of each volume. The table of contents must be prepared as follows:

- a. Each document in the excerpt must be listed by title, execution date, document creator's name (unless the creator is obvious), and the page on which the document begins.

EXAMPLE (multi-defendant case):

Complaint, November 12, 1990	1
Smith's Answer, December 8, 1990.....	38
Johnson's Answer, December 10, 1990	55

- b. When there is more than one volume of the excerpt, each document filed in a particular volume must be listed under the volume heading.

EXAMPLE:

Affidavit of Mary Smith, March 15, 1991	197
<u>Volume 2</u>	
Affidavit of William Johnson, April 3, 1991	199

- c. See Section E on confidential documents.

B. APPELLEE'S EXCERPT OF RECORD

The rules outlined above for Appellant's Excerpt of Record apply except that the first page of the first document in Appellee's excerpt must begin with the number immediately following the number of the last page in Appellant's excerpt (e.g., if Appellant's excerpt ends with page 237, then Appellee's excerpt would begin with page 238).

See Section E on confidential documents.

C. SUPPLEMENTAL EXCERPT OF RECORD

The rules outlined above apply except that the title of the file should be "Appellant's Supplemental Excerpt of Record" or "Appellee's Supplemental Excerpt of Record." In addition, the first page of the first document in a supplemental excerpt must begin with the number immediately following the number of the last page of the last excerpt filed in the case (e.g., if the last volume of Appellee's excerpt of record ends with page 225, then a supplemental excerpt filed with Appellant's reply brief would begin with page 226).

D. CITATION GUIDELINES

1. DOCUMENTS IN AN EXCERPT OF RECORD: [Exc. 126].
2. TRANSCRIPT: [Tr. 109].
3. DOCUMENTS IN THE RECORD, BUT NOT IN AN EXCERPT: [R. 78].

Note: When citing testimony presented by deposition, do not cite to the deposition. Instead, include the relevant pages of the deposition in the excerpt and cite to the excerpt.

E. CONFIDENTIAL DOCUMENTS

1. Confidential documents must be arranged in chronological order by document execution date, with the document with the earliest date on top.
2. Pages must be numbered consecutively, beginning with the number immediately following the number of the last page of the last non-confidential document in Appellant's excerpt. Page numbers must appear at the bottom of the page.

3. Confidential documents must be placed in a manila envelope marked "APPELLANT'S EXCERPT - CONFIDENTIAL." The case name and the appellate case number must be written on the front of the envelope. The envelope must be placed at the end of the last volume of the party's excerpt.

4. Confidential documents must be listed at the end of the table of contents under the heading "Confidential Envelope."

EXAMPLE:

Judgment and Commitment, November 2, 1992..... 67

Confidential Envelope

Presentence Report, August 30, 1992 68

Updated Presentence Report, September 15, 1993..... 76

5. The first page of the first document in Appellee's excerpt begins with the number immediately following the number of the last page of the last document in Appellant's confidential envelope (e.g., if the last confidential document in Appellant's confidential envelope ends with page 95, then Appellee's excerpt would begin with page 96).

F. AGENCY APPEALS TO THE SUPERIOR COURT.

An excerpt of record is required in an appeal from an administrative agency to the superior court. See Appellate Rule 604(b)(1)(B). These instructions govern the form of excerpts filed in the superior court, except that

1. documents in an excerpt must be copied on one side of the paper (not duplexed) and two-hole punched at the top center of each page;
2. each volume of the excerpt must stapled or bound at the top with a metal fastener (e.g., an Acco fastener);
3. the cover of the excerpt must be on white paper of the same weight and quality as other documents in the excerpt; and
4. only one copy of the excerpt must be filed with the court.

G. PURPOSE OF EXCERPTS.

Submitting a proper excerpt is essential to the court's efficient understanding of a case. An excerpt which is indiscriminately over-inclusive may divert the court's attention from those few documents which may be dispositive. Parties are urged to ensure that the critical documents potentially dispositive of the appeal are contained in the excerpt, and that the brief or the excerpt adequately advises the court exactly which documents are critical.

appeal. If the transcript is not being prepared at public expense and the transcriber is unable to complete the transcript within this time, the appellant shall move the appellate court for an extension of time. The motion shall comply with Appellate Rule 503, shall also be served on the clerk of the trial courts, and shall be considered a routine motion within the meaning of Rule 503.5(b).

(5) *Filing and Distribution.* Upon completion of the transcript, the transcriber shall promptly notify the parties in writing that the transcript has been completed and shall file with the clerk of the appellate courts (i) the original transcript; and (ii) an electronic version of the transcript in the form and format prescribed by administrative bulletin. No other copies of the transcript are required unless otherwise specified by the clerk.

(6) *Costs.* If the transcript is not being prepared at public expense, the cost of preparing the original transcript, the copy filed with the court and the computer diskette shall be paid by the appellant. This cost may be taxed as a cost in the case, but if any party causes parts of the electronic record to be transcribed unnecessarily, the court may impose the cost of transcribing such parts on that party.

(7) *Form of Transcript.* Transcripts shall be in the form and format prescribed by administrative bulletin.

(8) *Statement in Lieu of Transcript.* If there is no electronic recording from which a transcript can be prepared, the appellant may prepare a statement of the evidence of proceedings from the best available means, including the appellant's recollection, for use instead of a stenographic or electronically recorded transcript. This statement shall be served on the appellee, who may serve objections or proposed amendments, and shall be submitted to the court from which the appeal is being taken for settlement and approval. As settled and approved, the statement shall be filed with the clerk of that court and transmitted to the appellate court in lieu of a transcript.

(c) Excerpts of Record.

(1) Duty to Prepare.

(A) Each party shall file and serve an excerpt of record with the party's brief.

(B) In cases involving multiple appellants or appellees, each side shall prepare a single excerpt of record. In a case involving multiple appellants who are filing separate briefs, the appellant who filed the first notice of appeal shall prepare and file the excerpt for the appellants, unless the appellants otherwise agree. In a case involving multiple appellees who are filing separate briefs, the appellees shall decide among themselves which appellee shall prepare and file the excerpt for the appellees. Ten days prior to the date on which a side's briefs are due, the parties who are not responsible for preparation of the excerpt shall transmit to the responsible party a list of documents to be included in the excerpt. The responsible party shall include in the excerpt all documents which are specified by the other parties, provided such

documents are in the record. A party who fails to transmit a list of documents to the responsible party by the 10 day deadline waives the right to designate documents for inclusion in the excerpt. The responsible party shall mail a copy of the excerpt to each of the other parties on that side six days before the date the briefs are due, or deliver a copy of the excerpt three days before the date the briefs are due, so that the other parties may include the appropriate citations in their briefs. The cost of copying and mailing the excerpt shall be borne equally by all parties on the side.

(C) A cross-appellant or cross-appellee who elects to file a single brief shall file a single excerpt with that brief. A cross-appellant who makes this election shall include in the excerpt those documents that are properly included in an appellee's excerpt under Rule 210(c)(2). A cross-appellant who elects to file separate briefs shall file and serve notice of this election within 10 days after service of the notice of the due date for appellant's brief. If a cross-appellant makes this election, the cross-appellant and the appellant shall be treated as co-appellants filing separate briefs and shall prepare and submit a combined excerpt as required by Rule 210(c)(1)(B). The cross-appellee and the appellee shall be treated as co-appellees filing separate briefs for purposes of that rule.

(2) Contents.

(A) *Appellant's Excerpt.* The appellant's excerpt of record must contain the following parts of the record:

(i) all charging documents, or the petition or complaint, counterclaim, crossclaim, and answer setting out the issues to be tried;

(ii) the judgment or interlocutory order from which the appeal is taken;

(iii) other orders or rulings sought to be reviewed;

(iv) supporting opinions, findings of fact, conclusions of law, or other statements showing the reasoning of the trial court and, if appellant claims that the written findings of fact or conclusions of law are insufficient or erroneous, a copy of the pages of the transcript at which any relevant oral findings of fact and conclusions of law are recorded;

(v) if the appeal is from the grant or denial of a motion, relevant portions of briefs, memoranda, and documents filed in support of and in opposition to the motion;

(vi) if the appellant is challenging the admission or exclusion of evidence, the giving or failure to give a jury instruction, or another oral ruling or order, a copy of the pages of the transcript at which the evidence, offer of proof, ruling, or order and relevant discussion by the court, and any necessary objection are recorded;

(vii) if the appeal is from a final decision in a child-in-need-of-aid proceeding under AS 47.10.080(c) or a case involving the termination of parental rights under AS 25.23.180, the predisposition report prepared in the case; and

(viii) specific portions of other documents in the record,

including documentary exhibits, that are referred to in appellant's brief and essential to the resolution of an issue on appeal.

(B) *Appellee's Excerpt.* The appellee's excerpt of record must contain those parts of the record required under (c)(2)(A) and relied on by appellee that were not included in the appellant's excerpt.

(C) *Portions of the Transcript.* Parties may also include in the excerpt selected pages of the transcript that are critical to the appeal.

(D) *Items Not to Be Included in the Excerpts.* Pages of the transcript and briefs and memoranda filed in the trial court may only be included in the excerpts if required under (c)(2)(A) or permitted under (c)(2)(C). The fact that parts of the record are not included in the excerpts does not prevent the parties or the appellate court from relying on those parts.

(3) *Supplemental Excerpts.* Appellant may file and serve a supplemental excerpt of record with appellant's reply brief or within the time specified for filing a reply brief. No other supplemental excerpt may be filed except by leave of the appellate court granted on motion, or at the request of the appellate court. A supplemental excerpt may not include parts of the record that appear in another excerpt filed in the appeal.

(4) *Form, Filing and Service.* Each party's excerpt of record must be arranged in chronological order, must be bound separately from the party's brief, and must contain a table of contents at the beginning of the first volume. The excerpt and the table of contents must be in the form specified in the Clerk's Instructions for Preparation of Excerpts published in these rules. One copy of the excerpt must be filed and served with the party's original brief. Eight copies of the excerpt must be filed with the bound copies of the brief, and one copy must be served on counsel for each party separately represented, unless a different number is specified by the clerk.

(5) *Excerpts to be Abbreviated.* The parties shall include in the excerpts only those parts of the record that are essential to a determination of the questions presented on appeal. For any infraction of this rule, the appellate court may impose sanctions and withhold or impose costs as the circumstances of the case and discouragement of like conduct in the future may require.

(6) *Costs.* Subject to (c)(5), the prevailing party is entitled to recover the cost of copying its excerpt of record under Appellate Rule 508(d).

(d) **RESERVED.**

(e) **Preparation of the Trial Court File.**

(1) *Page Numbering.* Upon receiving the notice of appeal, the regional appeals clerk shall number the pages of the record, assembled in accordance with subsection (a) of this rule, in a single consecutive sequence throughout all volumes. Page numbering must be completed within 40 days after filing of the notice of appeal. In an appeal from the Alaska Workers' Compensation Appeals Commission, the commission's record

should be numbered beginning with the number immediately following the number of the last page in the record prepared by the Workers' Compensation Board.

(2) *Confidential Materials.* Papers filed under seal in the trial court and exhibits submitted or introduced at closed hearings in the trial court shall be maintained under seal while they constitute part of a record on appeal, and access to them shall be governed by Rule 512.5(c).

(f) **Briefing Schedule.** Upon filing of the transcript and completion of the page numbering, the clerk of the trial courts shall notify the clerk of the appellate courts that the case is ready for briefing. Upon receiving this notice, the clerk of the appellate courts shall give notice of the due date for the appellant's brief.

(g) **Transmission of the Record.**

(1) *Transmission to Appellate Court.* Upon notification that briefing is complete, the clerk of the trial courts shall transmit the record, excluding physical exhibits, to the clerk of the appellate courts. Physical exhibits shall be retained by the trial court unless specifically requested by the appellate court. As used in this paragraph, "physical exhibits" includes exhibits other than documents or photographs, and also includes documents or photographs of unusually large size or unusual bulk or weight.

(2) *Transfer to Other Court Locations.* The clerk of the appellate courts may direct that the record be temporarily transferred to another court location within the state for the accommodation of counsel in the preparation of briefs.

(h) **Several Appeals.** When more than one appeal is taken to the appellate court from the same judgment, there shall be a single record on appeal. In preparing the record, deadlines which run from filing of the notice of appeal shall run from filing of the last notice of appeal.

(i) **Power of Court to Correct, Modify, or Supplement.** It is not necessary for the record on appeal to be approved by the trial court or a judge thereof except as provided in paragraph (b)(8) and in Rule 211, but if any difference arises whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to that court's decision. If anything material to either party is omitted from the record on appeal by error or accident by court personnel, or is misstated therein, the parties by stipulation, the trial court, or the appellate court, on a proper suggestion or of its own initiative, may direct that the omission or misstatement shall be corrected. All other questions as to the content and form of the record shall be presented to the appellate court. Materials (including filings, exhibits, electronic recordings, or transcripts) filed with the trial court after the filing date of the notice of appeal may be added to the record on appeal only upon motion designating by title, description, and filing date the materials sought to be added, and are limited to the following:

(1) materials pertaining to attorney's fees, costs, or prejudgment interest;